

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, et al.,
Debtors.¹

PROMESA
Title III

Case No. 17-BK-3283-LTS
(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO ELECTRIC POWER AUTHORITY,
Debtor.

PROMESA
Title III

Case No. 17-BK-4780-LTS
(Jointly Administered)

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

Plaintiff,

v.

HON. PEDRO PIERLUISI, in his official capacity as Governor
of Puerto Rico,

Defendant.

Adv. Proc. No. 24-00062-LTS

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17- BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17- BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

STATEMENT OF UNCONTESTED MATERIAL FACTS
IN SUPPORT OF THE SENATE’S MOTION FOR SUMMARY JUDGMENT

TO THE HONORABLE COURT:

Pursuant to Local Rule 56(b), applicable to this proceeding through Local Bankruptcy Rule 1001-1(d), Hon. José Luis Dalmau, in his official capacity as the President of the Senate of Puerto Rico (the “Senate”) respectfully submits this Statement of Uncontested Material Facts in support of its Motion for Summary Judgment. The Senate contends there is no genuine issue of facts to be tried with respect to these material facts.

STATEMENT OF UNCONTESTED MATERIAL FACTS

1. On October 21, 2022, Senate Bill 1064 (“S.B. 1064”), which later became Act 10-2024 (“Act 10”), was presented by Senator Juan Zaragoza-Gómez upon petition of the environmental organization Sierra Club. *See Declaration of Yamil Rivera Vélez, Secretary of the Senate*, Exhibit 1 (“Rivera Decl.”), ¶ 2; S.B. 1064, Exhibit 2.

2. S.B. 1064 purpose was

[t]o amend Section 4 of Act 114-2007, as amended, known as the ‘Electric Power Authority Net Metering Program Act’, in order to reformulate the term provided for conducting a study on net metering and distributed energy; so that the Electric Utility may request the Bureau of Energy and the Federal Emergency Management Agency (FEMA), the necessary funds to increase the capacity of the distribution system to integrate photovoltaic systems; and for other purposes.

S.B. 1064, Exhibit 2, at p. 1.

3. S.B. 1064 proposed to defer the term for the net metering study to be conducted by PREB until distributed renewable energy generation had exceeded 25% of Puerto Rico’s energy consumption. S.B. 1064, Exhibit 2, § 1, at Pp. 5-6.

4. The following senators became the co-authors of S.B. 1064 along with Mr. Zaragoza-Gómez: Gretchen Hau, Javier Aponte-Dalmau, Joanne Rodríguez-Veve, Migdalia González-Arroyo, Rubén Soto Rivera, and William Villafaña-Ramos. Rivera Decl., Exhibit 1, ¶ 4.

5. After the initial presentation, S.B. 1064 was referred to the Senate’s Committee on Strategic Projects and Energy, chaired by Senator Javier Aponte Dalmau. The committee rendered a positive report on June 24, 2023, recommending the passage of the bill with amendments. Rivera Decl., Exhibit 1, ¶ 5.

6. The following entities appeared before the Senate’s Committee on Strategic Projects and Energy to provide their comments to S.B. 1064: Solar and Energy Storage Association of Puerto Rico (SESA); LUMA Energy, LLC; the Puerto Rico Energy Bureau (“PREB”); the Puerto Rico Fiscal Agency and Financial Authority (“AAFAF” by its Spanish acronym); Cambio PR; the Puerto Rico Association of Renewable Energy Consultants and Contractors, Inc. (“ACONER” by its Spanish acronym). Rivera Decl., Exhibit 1, ¶ 6.

7. The PREB did not oppose S.B. 1064. The PREB recognized that deferring the study on net metering until the growth of distributed renewable energy generation reached 25% of Puerto Rico’s energy consumption could benefit the net metering program and distribution. *See Explanatory Memorandum of the PREB*, Exhibit 3, Pp. 7-8.

8. Because it understood that a benefit could be obtained from having a specific date for conducting the net metering study, the PREB suggested “to reach consensus as to the date on which the study should be carried out, based on the different contributions, suggestions and recommendations from all sectors, including industry and the Puerto Rican people.” *Explanatory Memorandum of the PREB*, Exhibit 3, p. 8.

9. On June 25, 2023, the Senate unanimously approved S.B. 1064 with 26 votes in favor and no votes against. Rivera Decl., Exhibit 1, ¶ 9.

10. S.B. 1064 was sent to the House of Representatives, where it was referred to the House Committee on Economic Development, Planning, Telecommunications, Public-Private Partnerships, and Energy. Rivera Decl., Exhibit 1, ¶ 10.

11. On October 24, 2023, the House of Representatives made minor amendments to S.B. 1064 and approved it with 37 votes in favor, no votes against, and 14 representatives absent. Rivera Decl., Exhibit 1, ¶ 11.

12. On November 8, 2023, the Senate received the bill with the House's amendments and voted to concur. The vote in the Senate was 25 in favor, no votes against, and two senators absent. Rivera Decl., Exhibit 1, ¶ 12.

13. After final approval by both legislative chambers, S.B. 1064 was signed by the President of the Senate on December 1, 2023, and by the President of the House of Representatives on January 8, 2024. The bill was sent to the Governor of Puerto Rico, Pedro Pierluisi-Urrutia, on January 9, 2024. Governor Pierluisi signed the bill into law on January 10, 2024, officially enacting Act 10. Rivera Decl., Exhibit 1, ¶ 13.

14. Act 10 "amend[s] Articles 4 and 9 of Act 114-2007, as amended, known as the 'Electric Power Authority Net Metering Program Act', in order to reformulate the term provided to conduct a study on net metering and distributed energy; and for other purposes." *See* Act 10 (Certified English Translation), Dkt. 1-7, p. 2 of 12 (Certification).

15. Act 10 changes the timeframe for the PREB's study on the net metering program, from a due date of April 2024 to a date of January 2030, when it may begin the study. It does not introduce any substantive changes to the operation or regulation of the net metering program itself,

nor does it alter the compensation mechanisms for existing customers. *See* Act 10 (Certified English Translation), Dkt. 1-7, Pp. 6-8 of 12.

16. In legislating Act 10, the Senate considered and included the change requested by the PREB for establishing a specific timeframe for conducting the net metering study. *See* Act 10 (Certified English Translation), Dkt. 1-7, § 1, Pp. 6-7 of 12; *Explanatory Memorandum of the PREB*, Exhibit 3, p. 8.

17. The Senate amended S.B. 1064 to delete the language regarding the financial obligations of the electric services company (LUMA) on feeder improvements, which AAFAF had asserted out in its written comments to the Senate's Committee on Strategic Projects and Energy might not align with the 'Fiscal Neutrality Principle' of PROMESA. *See* Act 10 (Certified English Translation), Dkt. 1-7, § 1, Pp. 6-8 of 12; *Explanatory Memorandum of AAFAF*, Exhibit 4, p. 5; S.B. 1064, Exhibit 2; § 2, at p. 9.

18. From filing at the Senate on October 21, 2022, to signature by the Governor on January 10, 2024, the approval process of S.B. 1064 as Law 10-2024, took 14 months and 11 days. *See* S.B. 1064, Exhibit 2; § 2, at p. 9.

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that the instant document has been filed with the Court's CM/ECF System, which will simultaneously serve notice on all counsels of record to their registered e-mail addresses. Any non-registered attorneys and/or parties will be served via regular mail.

In San Juan, Puerto Rico this 25th day of September, 2024.

RESPECTFULLY SUBMITTED.

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Jose Luis Dalmau Santiago, in his
official capacity as President of the
Senate of Puerto Rico.*